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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.31 OF 2007
IN
NOTICE NO.N/273 OF 2006

Mr.Aga Xerxes Kershasp & Ors. ...Judgment Debtors
V/s.
Apna Sahakari Bank Ltd. ...Judgment Creditor

Mr.Sandip S. Jinsiwale, Advocate, for the Judgment Debtors.

Mrs.Pooja M. Gaonkar, Advocate, for the Judgment Creditor.

CORAM : ABHAY S. OKA, J.
DATED : 16TH OCTOBER, 2007.

P.C.:

1. Heard the learned Counsel appearing for the judgment-debtors in support of Notice of Motion and learned Counsel appearing for the judgment-creditor. This insolvency notice has been taken out by the judgment-creditor on the basis of an award made under Section 91 of the Maharashtra Co-operative Societies Act, 1960.

2. In view of the decision of this Court dated 4th September, 2007 in the Notice of Motion No.40 of 2007 (Re.Kishore K. Mehta) and other connected matters,

insolvency notice under Section 9(2) of the Presidency Towns Insolvency Act, 1909 is not maintainable on the basis of an award made under Section 91 of the Maharashtra Co-operative Societies Act, 1960.

3. In view of this legal position, the Notice of Motion is made absolute in terms of prayer clause (a).

[ABHAY S. OKA, J.]